1		
2		
3		
4		
5	LINITED STATES	DISTRICT COURT
6	WESTERN DISTRICT OF WASHINGTON AT TACOMA	
7	ATTACOWA	
8	STEVEN C. CEARLEY,	CASE NO. C17-5416 BHS
9	Petitioner, v.	ORDER ADOPTING REPORT AND RECOMMENDATION
10	RON HAYES,	
11	Respondent.	
12		
13	This matter comes before the Court on the Report and Recommendation ("R&R")	
14	of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 12), and	
15	Petitioner Steven Cearley's ("Cearley") objections to the R&R (Dkt. 14).	
16	On November 1, 2017, Judge Christel issued the R&R recommending that the	
17	Court dismiss Cearly's petition as time-barred. Dkt. 12. On November 15, 2017,	
18	Cearley filed objections. Dkt. 14.	
19	The district judge must determine de novo any part of the magistrate judge's	
20	disposition that has been properly objected to. The district judge may accept, reject, or	
21	modify the recommended disposition; receive further evidence; or return the matter to the	
22	magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).	

In this case, Cearley contends that his petition is timely because his conviction did not become final until the state court of appeals issued its mandate. Dkt. 14 at 2–3. Cearley is incorrect. "[F]or a state prisoner who does not seek review in a State's highest court, the judgment becomes 'final' on the date that the time for seeking such review expires." *Gonzalez v. Thaler*, 565 U.S. 134, 150 (2012). Cearley did not seek review in the Washington Supreme Court. Thus, his conviction became final when the time for seeking review in that court passed and not when the court of appeals issued its mandate.

Therefore, the Court having considered the R&R, Petitioner's objections, and the remaining record, does hereby find and order as follows:

- (1) The R&R is **ADOPTED**;
- (2) Cearley's petition is **DISMISSED** as time-barred;
- (3) The Court **DENIES** a Certificate of Appealability; and
- (4) The Clerk shall enter **JUDGMENT** in favor of Respondent and close this case.

Dated this 18th day of December, 2017.

BENJAMIN H. SETTLE United States District Judge